

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE ENROLLED ACT No. 1948

AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-2.1-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]:
Sec. 16. (a) Except as provided in subsection ~~(b)~~; **(c)**, amounts received from sales of real estate are exempt from gross income tax to the extent of any mortgage or other similar encumbrance that exists on the real estate at the time of its sale.

(b) Except as provided in subsection (c), amounts received from the sale, lease, or other transfer by or to an electric utility (as defined in IC 8-1-2-1) or a general district corporation (as defined in IC 8-1-13-23(a)) of an interest in an electric generating facility (and auxiliary equipment, if any) that at the time of the sale, lease, or transfer is subject, in whole or in part, to one (1) or more leases entered into under Section 168(f)(8) of the Internal Revenue Code of 1954 (as in effect from time to time) are exempt from gross income tax to the extent of any mortgage, security interest, or similar encumbrance that exists on the interest in the electric generating facility (and auxiliary equipment, if any) at the time of the sale, lease, or transfer.

(c) The ~~exemption~~ exemptions provided by this section ~~does~~ do not apply to any mortgage, security interest, or encumbrance created for the purpose of avoiding gross income tax liability.

SECTION 2. IC 6-2.1-3-16.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]: **Sec. 16.5. (a)**
As used in this section, "affiliate" means a corporation, partnership, limited liability company, or trust that controls, is controlled by, or is under common control with another corporation, partnership, limited liability company, or trust. For purposes of this section, an entity controls another entity if the first entity directly or indirectly owns at least eighty percent (80%) of the outstanding voting stock or other equivalent voting interests of the second entity.

(b) As used in this section, "investment" means:

- (1) a loan or deposit made by; or
- (2) an investment contract or payment agreement purchased by;

a qualified lessee.

(c) As used in this subsection, "qualified investment" means the following:

- (1) An investment or group of investments in which the amount payable on the investment or group of investments is substantially identical to the amount of cash needed by a qualified lessee to pay (and the investment or group of investments has been acquired by a qualified lessee for the purpose of enabling the qualified lessee to pay):

- (A) the remaining basic rent under a qualified lease; and
- (B) the exercise price of any purchase option (whether or not ultimately exercised) that is contained in a qualified lease.

- (2) An investment or group of investments that is made or purchased to replace part or all of any existing qualified investment.

(d) As used in this section, "qualified lease" means the lease of an interest in an electric generating facility (and auxiliary equipment, if any), where the property is subject (at the commencement of the lease), in whole or in part, to one (1) or more leases previously entered into under Section 168(f)(8) of the Internal Revenue Code of 1954 (as in effect from time to time).

(e) As used in this section, "qualified lessee" means a person who is a lessee under a qualified lease or is an affiliate of a person who is a lessee under a qualified lease.

(f) Gross income received by a qualified lessee from a qualified investment is exempt from gross income tax.

SECTION 3. [EFFECTIVE JANUARY 1, 2001 (RETROACTIVE)]



IC 6-2.1-3-16, as amended by this act, and IC 6-2.1-3-16.5, as added by this act, apply to taxable years beginning after December 31, 2000.

SECTION 4. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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